UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/599,885	10/12/2006	Eric Thelen	NL040393	5995

24737 7590 08/19/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS
P.O. BOX 3001
BRIARCLIFF MANOR, NY 10510

EXAMINER	
NGUYEN, AN V	
ART UNIT	PAPER NUMBER
4126	
MAIL DATE	DELIVERY MODE
08/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/599,885	THELEN, ERIC	
	Examiner	Art Unit	
	AN NGUYEN	4126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12 October 2006* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

Claim 8, line 1 recites "The method of claim 8" which depends to itself. For the purposes of examination, the Examiner will assume that claim 8 depends on "the method of claim 7".

Appropriate correction is required.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

   Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claim 14 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

   Claim 14 recites "A computer program product…" However, the claim does not claim the product is embodied on an electronic storage medium or a *computer-readable medium*. The specification does not define an electronic storage medium or a *computer-readable medium* to be a memory/disk and is thus non-statutory for that reason (i.e., "When functional descriptive material is recorded on some computer-readable medium it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized").

A computer program by itself without being embodied on a computer readable medium is not statutory subject matter.

Because the full scope of the claim as properly read in light of the disclosure encompasses non-statutory subject matter, the claim as a whole is non-statutory, under the present USPTO Interim Guidelines, 1300 Official Gazette Patent and Trademark Office 142 (Nov. 22, 2005).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-7, and 9-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Obrador, US 6,585,521.

Regarding claim 1, Obrador discloses a method of processing media content, comprising:

obtaining a plurality of segments of the media content, each respective one of the segments being associated with a respective predetermined emotion of a particular user(col. 4, lines 45-55 and col. 5 line 33-43); and

combining the segments to generate a content item for

presenting to the particular user (col. 5, lines 40-63).

Regarding claim 2, Obrador discloses obtaining a

response of the particular user to the generated content item

when the generated content item is being presented (col. 3, lines 55-60).

Regarding claim 3, Obrador discloses generating

a new content item based on the content, using the user

response (col. 3, lines 55-60; to create an indexed video sequence based on the detected response).

Regarding claim 4, Obrador discloses determining

a content correlation between the segments, wherein the

determined correlation is used for combining the segments (col. 4, lines 30-45).

Regarding claim 5, Obrador discloses the response relates to

at least one of:

a particular segment of the generated content item, and

a particular combination of the segments (col. 3, lines 30-35; when a video sequence is played back, the system captures reaction to the individual segments).

Regarding claim 6, Obrador discloses the combining comprises applying to the segments at least one of video and audio effects selected from at least one of: a fusion, a transformation, a transition, and a distortion (col. 4, lines 37-45, indices are created by fusing segments together based on emotion type (funny, happy, etc.)).

Regarding claim 7, Orbrador discloses the media content comprises at least one of personal content of said user and generic content; and further comprising selecting at least one segment of the generic content to connect the segments of the personal content (col. 3, lines 30-35; some users laugh corresponding to personal content, some viewers do not, corresponding to generic content).

Regarding claim 9, Orbrador discloses at least one of only the response for the content item generated for the last time is analyzed (col. 3, lines 31-34),

the response for the content item generated for the last time is weighted higher than a preceding response, and

an average of the responses for generated content items is calculated(col. 3 lines 31-34 analyzer analyzes the content each time the content is played to get more accurate reaction response).

Regarding claim 10, the system claim corresponding to method claim 1, and is analyzed and rejected accordingly.

Regarding claim 11, the system claim corresponding to method claim 2, and is analyzed and rejected accordingly.

Regarding claim 12, the system claim corresponding to method claim 3, and is analyzed and rejected accordingly.

Regarding claim 13, Obrador discloses a user input device coupled to the processor(fig. 2, items 214, 216; fig. 1B, item 110), the user input device being arranged to enable the user to provide his response to the processor, and a presentation device (fig. 1B, item 170)for presenting the content item or the new content item to the user (col. 3, line 65 - col. 4, line 8, Obrador describes that the camera gathers the viewer's emotional input and the computer detects and categorizes the viewer's behavior, and indexes the segment accordingly).

Regarding claim 14, the computer program corresponding to claim 13, and is analyzed and rejected accordingly. The process according to claim 13 inherently is run by computer code.

Regarding claim 15 is rejected as analyzed according to claim 1. As stated, the system gathers feedback and associates it with the video segment corresponding to meta-data, and the segments are indexed according to this data.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Obrador, US 6,585,521 in view of Saruhashi et al., US 2004/0158866.

Regarding claim 8, Obrador teaches the method of claim 7, however Obrador does not teach the media content comprises at least one of personal content of said user and generic content; and further comprising controlling a ratio of the generic content to the personal content in the generated content item.

Saruhashi teaches the media content comprises at least one of personal content of said user and generic content; and further comprising controlling a ratio of the generic content to the personal content in the generated content item. Saruhashi discloses a system to create data and deliver it to a user. Further Saruhashi discloses designating a ratio of content types in the contents ([0107]; Saruhashi discloses designating a content ratio of types of contents). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the

system of Obrador with the feature as taught by Saruhashi in order to limit the amount of one type of content that is allowed to be inserted. The advantage would have been a desire to display a minimum amount of a type of content as desired.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AN NGUYEN whose telephone number is (571)270-5676. The examiner can normally be reached on 8 to 5 Mon thru Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hai Tran can be reached on 571-272-7305. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Examiner, Art Unit 4126

AVN
/Hai Tran/
Supervisory Patent Examiner, Art Unit 4126